



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 6, 1990

**Mr. Kenneth H. Ashworth
Commissioner of Education
Texas Higher Education
Coordinating Board
P. O. Box 12788
Austin, Texas 78711**

LO-90-52

Dear Mr. Ashworth:

You ask whether the common-law doctrine of incompatibility prohibits a member of the board of trustees for a county-wide junior college district from serving on the governing body of the city in which the campus of the junior college is located or on the governing board of a city that is within the district but does not contain any part of the junior college campus. We conclude that incompatibility prohibits a member of the board of trustee for a county-wide junior college district from serving on the governing board of a city within the district, regardless of the location of the junior college campus.

A 1984 attorney general opinion concluded that incompatibility prohibited a member of the board of trustees for a junior college from serving on the commissioners court for a county in a situation in which their jurisdictions overlapped. Attorney General Opinion JM-129 (1984). That opinion concluded that there were a number of potential conflicts. Specifically, it concluded that section 130.121 of the Education Code, which allows a junior college district to require that property be assessed and that taxes be collected by a city or county in which any part of a junior college district is located, creates an incompatibility between the two positions in question. The reasoning of Attorney General Opinion JM-129 is equally applicable to the situations you ask about. It is the fact that the cities in question lie within the boundaries of the junior college district, not the location of the campus, that creates the incompatibility.

We conclude, therefore, that the common-law doctrine of incompatibility prohibits a member of the board of trustees

of a county-wide junior college district from serving on the governing board of a city that lies within the boundaries of the junior college district.

Very truly yours,

A handwritten signature in cursive script that reads "Sarah Woelk".

Sarah Woelk, Chief
Letter Opinion Section

SW/lcd

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